REMARKS

Claims 1-14 are pending. The Office Action dated April 13, 2004, in this Application have been carefully considered. The above amendments and the following remarks are presented in a sincere attempt to place this Application in condition for allowance. Claims 1, 3, 4, 7, 9-10, and 13-14 have been amended in this Response. Reconsideration and allowance are respectfully requested in light of the above amendments and following remarks for those Claims not considered being in condition for allowance.

An interview was held with the Examiner, Mr. Clifford Knoll, on July 6, 2004, to discuss the rejections under 35 U.S.C. §102(b), 35 U.S.C. §103(a) and proposed amendments to the Claims. Applicants wish to thank the Examiner for the courtesies extended.

Claim 1 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 6,081,859 to Munguia. Insofar as it may be applied against the Claim, this rejection is deemed overcome.

Rejected independent Claim 1 as now amended more particularly recites one of the distinguishing characteristics of the present invention, namely, "*wherein the step of varying the time in the switched system is a function of a plurality of requests, but does not keep track of latency times of any selected processor or proxy processor.*" (Emphasis added.) Support for this Amendment can be found, among other places, in Figure 3 and page 6, line 24 to page 8, line 7 of the original Application.

As discussed with the Examiner during the interview of July 7, 2004, Munguia does not disclose, teach, or suggest a distributed bus arbiter. Specifically, Munguia

discloses, teaches or suggests measuring the retry times of specific processors, but there is no detail to suggest a tracking of the activity level of the switch itself. In tracking overall use of the switch, apparatus complexity is simplified.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in amended Claim 1. Applicants therefore submit that amended Claim 1 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, Applicants respectfully request that the rejection of amended Claim 1 under 35 U.S.C. § 102(b) over Munguia be withdrawn and that Claim 1 be allowed.

Claim 2 stands rejected under 35 U.S.C. §102(b) as being anticipated by Munguia. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Claim 2 depends upon and further limits Claim 1. Hence, for at least the aforementioned reasons, this Claim should be deemed to be in condition for allowance. Applicants respectfully request that the rejection of the dependent Claim 2 also be withdrawn.

Claim 3 stands rejected under 35 U.S.C. §102(b) as being anticipated by Munguia. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Applicants contend that the rejection of amended Claim 3 is overcome for at least some of the reasons that the rejection of Claim 1 as amended is overcome. These reasons include Munguia not disclosing, teaching, or suggesting "*wherein the steps of increasing or decreasing the time in the switched system is a function of a plurality of requests, but does not keep track of latency times of any selected processor or proxy*

processor." (Emphasis added.) Applicants therefore respectfully submit that amended Claim 3 is clearly and precisely distinguishable over the cited reference.

Claim 7 stands rejected under 35 U.S.C. §102(b) as being anticipated by Munguia. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Applicants contend that the rejection of amended Claim 7 is overcome for at least some of the reasons that the rejection of Claim 1 as amended is overcome. These reasons include Munguia not disclosing, teaching, or suggesting "*wherein varying the time in the switched system is a function of a plurality of requests, but does not keep track of latency times of any selected processor or proxy processor.*" (Emphasis added.) Applicant therefore respectfully submits that amended Claim 7 is clearly and precisely distinguishable over the cited reference.

Claim 8 contains a typographical error, in that the word "have been" has been omitted in the phrase "requests processed." Claim 8 has been amended to correct this typographical error. Applicants contend that the rationale underlying this amendment bears no more than a tangential relation to any equivalence in question because "requests processed" has been replaced with "requests have been processed." *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 122 S.Ct. 1831 (2002).

Claim 8 stands rejected under 35 U.S.C. §102(b) as being anticipated by Munguia. Insofar as it may be applied against the Claims, this rejection is deemed overcome. Claim 8 depends upon and further limits Claim 7. Hence, for at least the aforementioned reasons, this Claim should be deemed to be in condition for allowance. Applicants respectfully request that the rejection of the dependent Claim 8 also be withdrawn.

Claim 9 stands rejected under 35 U.S.C. §102(b) over Munguia. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Applicants contend that the rejection of amended Claim 9 is overcome for at least some of the reasons that the rejection of Claim 7 as amended is overcome. These reasons include Munguia not disclosing, teaching, or suggesting *"wherein increasing or decreasing the time in the switched system is a function of a plurality of requests, but the does not keep track of latency times of any selected processor or proxy processor."* (Emphasis added.) Applicants therefore respectfully submit that amended Claim 9 is clearly and precisely distinguishable over the cited reference.

Claim 13 stands rejected under 35 U.S.C. §102(b) over Munguia. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Applicants contend that the rejection of amended Claim 13 is overcome for at least some of the reasons that the rejection of Claim 3 as amended is overcome. These reasons include Munguia not disclosing, teaching, or suggesting *"wherein the computer program code for increasing or decreasing the time in the switched system is a function of a plurality of requests, but does not keep track of latency times of any selected processor or proxy processor"* (Emphasis added.) Applicants therefore respectfully submit that amended Claim 13 is clearly and precisely distinguishable over the cited reference.

Claim 4 contains a typographical error, in that the word "to" has been omitted in the phrase "connected the switched system." Claim 4 has been amended to correct this typographical error. Applicants contend that the rationale underlying this amendment bears no more than a tangential relation to any equivalence in question because

"connected the switched system" has been replaced with "connected to the switched system." *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 122 S.Ct. 1831 (2002).

Claim 4 stands rejected under 35 U.S.C. §103(a) over Munguia in view of U.S. Patent Application Publication No.2004/0024945 to Keller. Insofar as it may be applied against the Claim, this rejection is deemed overcome.

Rejected independent Claim 4 as now amended more particularly recites one of the distinguishing characteristics of the present invention, namely, "*wherein the step of varying the time in the switched system is a function of a plurality of requests, but does not keep track of latency times of any selected processor or proxy processor*". (Emphasis added.) Support for this Amendment can be found, among other places, in Figure 3 and page 6, line 24 to page 8, line 7of the original Application.

Keller does not disclose, teach, or suggest a distributed bus arbiter. Specifically, Keller discloses, teaches or suggests recording latencies or recent data transfer latencies to various switches, and then selecting a retry latency from two or more retry latencies, but there is no detail to suggest a tracking of the overall activity level of a switch itself, and making a generalized determination of an appropriate delay latency for the switch. Furthermore, the present invention of Claim 4 further excludes use of a proxy processor as an alternative to tracking the latency times of individual processors. In tracking overall use of the switch instead of a proxy processor, apparatus complexity is simplified.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in amended Claim 4. Applicants therefore submit that amended Claim 4 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over this reference and

the remaining references of record. Accordingly, Applicants respectfully request that the rejection of amended Claim 4 under 35 U.S.C. § 103(a) over Munguia in view of Keller be withdrawn and that Claim 4 be allowed.

Claims 5-6 stand rejected under 35 U.S.C. §103(a) over Munguia in view of Keller. Insofar as they may be applied against the Claims, these rejections are deemed overcome. Claims 5-6 depend upon and further limit Claim 4. Hence, for at least the aforementioned reasons, these Claims should be deemed to be in condition for allowance. Applicants respectfully request that the rejections of the dependent Claims 5-6 also be withdrawn.

Claim 10 contains a typographical error, in that the word "to" has been omitted in the phrase "connected the switched system." Claim 10 has been amended to correct this typographical error. Applicants contend that the rationale underlying this amendment bears no more than a tangential relation to any equivalence in question because "connected the switched system" has been replaced with "connected to the switched system." *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 122 S.Ct. 1831 (2002).

Claim 10 stands rejected under 35 U.S.C. §103(a) over Munguia in view of Keller. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Applicants contend that the rejection of amended Claim 10 is overcome for at least some of the reasons that the rejection of Claim 4 as amended is overcome. These reasons include Munguia in view of Keller not disclosing, teaching, or suggesting *"wherein the means for increasing or decreasing the time in the switched system is a function of a plurality of requests, but does not keep track of latency times of any selected processor or proxy processor."* (Emphasis added.) Applicants therefore respectfully submit that

amended Claim 10 is clearly and precisely distinguishable over the cited references in any combination.

Claims 11-12 stand rejected under 35 U.S.C. §103(a) over Munguia in view of Keller. Insofar as they may be applied against the Claims, these rejections are deemed overcome. Claims 11-12 depend upon and further limit Claim 10. Hence, for at least the aforementioned reasons, these Claims should be deemed to be in condition for allowance. Applicants respectfully request that the rejections of the dependent Claims 11-12 also be withdrawn.

Claim 14 stands rejected under 35 U.S.C. §103(a) over Munguia in view of Keller. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Applicants contend that the rejection of amended Claim 14 is overcome for at least some of the reasons that the rejection of Claim 10 as amended is overcome. These reasons include Munguia in view of Keller not disclosing, teaching, or suggesting *"wherein the means for increasing or decreasing the time in the switched system employs a plurality of requests, but does not keep track of latency times of any selected processor or proxy processor."* (Emphasis added.) Applicants therefore respectfully submit that amended Claim 14 is clearly and precisely distinguishable over the cited references in any combination.

Applicants have now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request full allowance of Claims 1-14.

Applicants do not believe that any fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due

(other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

CARR LLP

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